



FILED

06-21-06
11:30 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
To Revise Its Electric Marginal Costs, Revenue
Allocation, and Rate Design.

Application 06-03-005
(Filed March 2, 2006)

(U 39 M)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON THE AGRICULTURAL ENERGY CONSUMERS ASSOCIATION
AND THE UTILITY REFORM NETWORK NOTICES OF
INTENT TO CLAIM COMPENSATION**

1. Summary

Article 5 of the Public Utilities Code¹ provides for compensation to public utility customers for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs of participation or intervention in any proceeding of the Commission. Pursuant to § 1804(a), the Agricultural Energy Consumers Association (AECA) and The Utility Reform Network (TURN) have each filed a notice of intent (NOI) to claim such compensation. There were no responses by other parties. This ruling determines that AECA and TURN are each eligible to claim compensation in this proceeding.

2. Timeliness of Filing

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve

¹ All statutory references are to the Public Utilities Code.

on all parties to the proceeding a notice of intent to claim compensation.” The prehearing conference was held on May 3, 2006. AECA filed its NOI on May 25, 2006 and TURN filed its NOI on May 26, 2006. Both filings were therefore timely.

3. Customer Status

To be eligible for compensation, a participant in a formal Commission proceeding must establish that it is a “customer” according to one of three definitional categories set forth in § 1802(b)(1):

“Customer” means any of the following:

- (A) A participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission.
- (B) A representative who has been authorized by a customer.
- (C) A representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from electrical corporations.”

Decision (D.) 98-04-059 (Conclusion of Law 5) requires a participant seeking compensation to explain how it meets the definition of customer. AECA and TURN each claim customer status under Category (C) as defined above.

As part of its filing, AECA provided a copy of its bylaws which provide for representation of its members in governmental proceedings affecting agricultural use of energy and the cost of energy to agriculture in the State of California. While AECA represents the interests of both large and small agricultural customers, it is requesting to be found eligible as a customer

intervening of behalf of its small agricultural customers only.² D.06-04-065 concluded that a compensation factor of 77.3% reflected the percentage of AECA members who were small agricultural customers.

TURN has previously submitted copies of its articles of incorporation authorizing it to represent interests of residential customers. TURN indicates that it has in excess of 200,000 dues-paying members, the vast majority of which are residential.

Both AECA and TURN have previously been determined to be a customer under this category. This ruling affirms that AECA and TURN are customers as defined by § 1802(b)(1)(C).

4. Nature and Extent of Planned Participation; Estimate of Compensation

Section 1804(a)(2)(A) requires that the NOI include both a statement of the nature and extent of a customer's planned participation and an itemized estimate of the compensation that the customer expects to request. Both AECA and TURN have provided the required information.

AECA intends to be involved in those aspects of this proceeding that pertain to agricultural rate design, marginal cost, the definition of agricultural

² Section 1812 explicitly states "A group or association that represents the interests of small agricultural customers in a proceeding and that would otherwise be eligible for an award of compensation pursuant to Section 1804 without the presence of large agricultural customers, as determined by the commission, shall not be deemed ineligible solely because that group or organization also has members who are large agricultural customers."

In recognition of this provision, the Commission has awarded intervenor compensation for the membership of AECA with annual electricity bills less than \$50,000. This \$50,000 determination was most recently upheld by the Commission in D.06-04-065.

customers and other scoped issues as they directly affect agricultural customers. That participation will include, but not be limited to, serving direct and rebuttal written testimony. AECA will also be performing cross-examination and attending hearings, as well as other necessary briefs and pleadings to effectively advocate in this proceeding. If settlement discussions are held in this proceeding, AECA plans to participate in appropriate settlement negotiations that may be held in the course of this litigation. AECA states that this participation will not be duplicative of the participation of other parties in this case, in that AECA will be specifically and narrowly addressing issues as they pertain to agricultural customers. AECA has provided an itemized \$146,500 estimate of compensation that it expects to request in this proceeding.

TURN states that it intends to serve testimony, participate in hearings, file post-hearing briefs, and comment on the proposed and any alternate decisions ultimately issued by the Commission. TURN expects to address concerns about the allocation of revenue requirements to residential customers, the protection of customers participating in the CARE program, and the design of rates within the residential class. TURN indicates that it will coordinate its participation with other intervenors, particularly the Commission's Division of Ratepayer Advocates, to prevent unnecessary duplication of effort. TURN has provided an itemized \$93,625 estimate of compensation that it expects to request in this proceeding.

The parties' estimates of compensation do not appear to be unrealistic for extensive participation in a marginal cost, revenue allocation and rate design proceeding for a major electric utility. Under § 1804(c), after issuance of a final order or decision in this proceeding, an eligible customer may request an award of compensation by including at a minimum a detailed description of services

and expenditures and a description of the customer's substantial contribution to the hearing or proceeding. Pursuant to § 1804(e), if the Commission finds that the customer requesting compensation has made a substantial contribution, it will determine the amount of compensation to be paid to the customer.

As described above, AECA and TURN have also addressed the Commission's requirement to discuss their representation of interests, as described in D.98-04-059³ and § 1801.3(f). The parties should, to the extent possible, work cooperatively, and they are reminded that substantial duplication of effort could potentially lead to a reduction in any award of compensation for which they might otherwise be entitled.

5. Significant Financial Hardship

Under § 1804(a)(2)(B), a showing of significant financial hardship may be made in the NOI or deferred until the request for compensation is filed. Pursuant to § 1804 (b)(1), a finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.

Within a year prior to Pacific Gas and Electric Company's application filing date of March 2, 2006, rebuttable presumptions of eligibility have been established for AECA (by D.06-04-065 dated April 27, 2006, in Application (A.) 04-11-007/A.04-11-008) and TURN (by ruling dated November 4, 2005, in A.05-02-027). There were no responses to either presumption of eligibility for this proceeding.

³ D.98-04-059, *Mimeo.* at pp. 27-28 and Finding of Fact 13.

IT IS RULED that:

1. The Agricultural Energy Consumers Association (AECA) and The Utility Reform Network (TURN) timely filed notices of intent to claim compensation in this proceeding.
2. AECA and TURN are customers as defined by § 1802(b)(1)(C).
3. AECA and TURN have each fulfilled the requirements of § 1804(a)(2)(A) by providing statements of the nature and extent of their planned participation and itemized estimates of the compensation they expect to request.
4. Significant financial hardship for AECA and TURN has been shown by rebuttable presumptions of eligibility based upon earlier findings of significant financial hardship.
5. AECA and TURN are eligible for compensation in this proceeding.

Dated June 21, 2006, at San Francisco, California.

/s/ DAVID K. FUKUTOME

David K. Fukutome
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated June 21, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

***** SERVICE LIST *****

Last Update on 19-JUN-2006 by: LIL
A0603005 LIST

***** APPEARANCES *****

Evelyn Kahl
Attorney At Law
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO CA 94104
(415) 421-4143
ek@a-klaw.com
For: Energy Producers & Users Coalition

Seema Srinivasan
Attorney At Law
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO CA 94104
(415) 421-4143
sls@a-klaw.com
For: Cogeneration Association of California

Edward G. Poole
Attorney At Law
ANDERSON & POOLE
601 CALIFORNIA STREET, SUITE 1300
SAN FRANCISCO CA 94108-2818
(415) 956-6413
epoole@adplaw.com
For: Western Manufactured Housing Community Assoc.

Reed V. Schmidt
BARTLE WELLS ASSOCIATES
1889 ALCATRAZ AVENUE
BERKELEY CA 94703-2714
(510) 653-3399
rschmidt@bartlewells.com
For: California City-County Street Light Association

Ronald Liebert
Attorney At Law
CALIFORNIA FARM BUREAU FEDERATION
2300 RIVER PLAZA DRIVE
SACRAMENTO CA 95833
(916) 561-5657
rliebert@cbbf.com
For: California Farm Bureau Federation

Gregory Heiden
Attorney At Law
CALIFORNIA PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO CA 94102
(415) 355-5539
gxh@cpuc.ca.gov
For: DRA

R. Thomas Beach
CROSSBORDER ENERGY
2560 NINTH STREET, SUITE 213A
BERKELEY CA 94710
(510) 549-6922
tomb@crossborderenergy.com
For: Crossborder Energy

Norman J. Furuta
Attorney At Law
DEPARTMENT OF THE NAVY
2001 JUNIPERO SERRA BLVD., SUITE 600
DALY CITY CA 94014-3890
(650) 746-7312
norman.furuta@navy.mil
For: Federal Executive Agencies

Gregory Klatt
Attorney At Law
DOUGLASS & LIDDELL
21700 OXNARD STREET, NO.1030
WOODLAND HILLS CA 91367
(818) 961-3002
klatt@energyattorney.com
For: Wal-Mart/JC Penney

Ann L. Trowbridge
Attorney At Law
DOWNEY BRAND, LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO CA 95814
(916) 444-1000
atrowbridge@downeybrand.com
For: California Clean DG Coalition

***** SERVICE LIST *****

**Last Update on 19-JUN-2006 by: LIL
A0603005 LIST**

Rob Neenan
CALIFORNIA LEAGUE OF FOOD PROCESSORS
980 NINTH STREET, SUITE 230
SACRAMENTO CA 95814
(916) 444-9260
rob@clfp.com
For: California League of Food Processors

Ann L. Trowbridge
Attorney At Law
DOWNEY BRAND, LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO CA 95814
(916) 444-1000
atrowbridge@downeybrand.com
For: Merced Irrigation District

Ann L. Trowbridge
Attorney At Law
DOWNEY BRAND, LLP
555 CAPITOL MALL, 10TH FLOOR
SACRAMENTO CA 95814
(916) 444-1000
atrowbridge@downeybrand.com
For: Sacramento Municipal Utility District

James D. Squeri
Attorney At Law
GOODIN, MACBRIDE, SQUERI, RITCHIE & DAY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO CA 94111
(415) 392-7900
jsqueri@gmssr.com
For: California Retailers Association

Charmin Roundtree-Baaqee
DAVE BEYER
EAST BAY MUD
375 11TH STREET
OAKLAND CA 94607
(510) 287-7026
cbaaqee@ebmud.com
For: East Bay MUD

Gregory Heiden
Legal Division
RM. 5039
505 VAN NESS AVE
San Francisco CA 94102
(415) 355-5539
gxh@cpuc.ca.gov

Bill F. Roberts
ECONOMIC SCIENCES CORPORATION
1516 LEROY AVENUE
BERKELEY CA 94708
(510) 841-6869
bill@econsci.com
For: Building Owners and Managers Associations

William H. Booth
Attorney At Law
LAW OFFICES OF WILLIAM H. BOOTH
1500 NEWELL AVENUE, 5TH FLOOR
WALNUT CREEK CA 94596
(925) 296-2460
wbooth@booth-law.com
For: CA Large Energy Consumers Association

Greggory L. Wheatland
Attorney At Law
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO CA 95814
(916) 447-2166
glw@eslawfirm.com
For: Vote Solar Initiative

Randall W. Keen
Attorney At Law
MANATT, PHELPS & PHILLIPS, LLP
11355 WEST OLYMPIC BLVD
LOS ANGELES CA 90064
(310) 312-4361
rkeen@manatt.com
For: Indicated Commercial Parties (ICP)

Lynn Haug
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO CA 95814
(916) 447-2166
lmh@eslawfirm.com
For: California Department of General Services/Energy
Policy Advisory Committee, East Bay Municipal

David J. Byers, Esq.
Attorney At Law
MCCRACKEN, BYERS & HAESLOOP, LLP
1528 SO. EL CAMINO REAL, SUITE 306
SAN MATEO CA 94402
(650) 377-4890 X 23
dbyers@landuselaw.com
For: California City County Street Light Association
(CAL-SLA)

***** SERVICE LIST *****

**Last Update on 19-JUN-2006 by: LIL
A0603005 LIST**

Carolyn Kehrein
ENERGY MANAGEMENT SERVICES
1505 DUNLAP COURT
DIXON CA 95620-4208
(707) 678-9506
cmkehrein@ems-ca.com
For: Energy Users Forum

Joy A. Warren
Attorney At Law
MODESTO IRRIGATION DISTRICT
1231 11TH STREET
MODESTO CA 95354
(209) 526-7389
joyw@mid.org
For: Modesto Irrigation District

Peter Hanschen
Attorney At Law
MORRISON & FOERSTER
101 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94596
(415) 268-7214
phanschen@mofo.com
For: Agricultural Energy Consumers Association

J. P. Ross
THE VOTE SOLAR INITIATIVE
182 2ND STREET, SUITE 400
SAN FRANCISCO CA 94105
(415) 874-7437
jpross@votesolar.org

Ann H. Kim
Attorney At Law
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 7442, MAIL CODE B30A
SAN FRANCISCO CA 94120-7442
(415) 973-7467
ahk4@pge.com
For: Pacific Gas and Electric Company

J.P. Ross
THE VOTE SOLAR INITIATIVE
182 SECOND STREET, SUITE 400
SAN FRANCISCO CA 94105
(415) 874-7437
jpross@votesolar.org

Rene Thomas
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, BO10A
SAN FRANCISCO CA 94105
(415) 973-8565
rat9@pge.com
For: Pacific Gas and Electric Company

Paul Kerkorian
UTILITY COST MANAGEMENT, LLC
726 W. BARSTOW AVE., SUITE 108
FRESNO CA 93704
(559) 261-9230
pk@utilitycostmanagement.com
For: California Rice Millers, ADM Rice, Inc.

***** STATE EMPLOYEE *****

James Ross
RCS, INC.
500 CHESTERFIELD CENTER, SUITE 320
CHESTERFIELD MO 63017
(636) 530-9544
jimross@r-c-s-inc.com
For: Cogeneration Association of California

Ron Wetherall
Electricity Analysis Office
CALIFORNIA ENERGY COMMISSION
1516 9TH STREET MS 20
SACRAMENTO CA 96814-5512
(916) 654-4831
rwethera@energy.state.ca.us
For: CALIFORNIA ENERGY COMMISSION

Keith R. Mccrea
Attorney At Law
SUTHERLAND, ASBILL & BRENNAN, LLP
1275 PENNSYLVANIA AVE., N.W. STE. 800
WASHINGTON DC 20004-2415
(202) 383-0705
keith.mccrea@sablalaw.com
For: California Manufacturers & Technology Assn.

Andrew Campbell
Executive Division
RM. 5304
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-2501
agc@cpuc.ca.gov

***** SERVICE LIST *****

**Last Update on 19-JUN-2006 by: LIL
A0603005 LIST**

Matthew Freedman
HAYLEY GOODSON
Attorney At Law
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO CA 94102
(415) 929-8876
freedman@turn.org
For: TURN

David K. Fukutome
Administrative Law Judge Division
RM. 5042
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-2403
dkf@cpuc.ca.gov

Maryam Ghadessi
Energy Division
AREA 4-A
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-1183
mmg@cpuc.ca.gov

Dexter E. Khoury
Division of Ratepayer Advocates
RM. 4209
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-1200
bsl@cpuc.ca.gov

Donald J. Lafrenz
Energy Division
AREA 4-A
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-1063
dlf@cpuc.ca.gov

Felix Robles
Energy Division
AREA 4-A
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-2818
fvr@cpuc.ca.gov

Cherie Chan
Division of Ratepayer Advocates
RM. 4209
505 VAN NESS AVE
San Francisco CA 94102
(415) 703-1546
cyc@cpuc.ca.gov
For: DRA

Editorial Assistant
CALIFORNIA ENERGY MARKETS
517-B POTRERO AVE
SAN FRANCISCO CA 94110
(415) 552-1764
cem@newsdata.com

Donald C. Liddell
Attorney At Law
DOUGLASS & LIDDELL
2928 2ND AVENUE
SAN DIEGO CA 92103
(619) 993-9096
liddell@energyattorney.com

Wendy L. Illingworth
ECONOMIC INSIGHTS
320 FEATHER LANE
SANTA CRUZ CA 95060
(831) 427-2163
wendy@econinsights.com

Kevin J. Simonsen
ENERGY MANAGEMENT SERVICES
646 EAST THIRD AVENUE
DURANGO CO 81301
(970) 259-1748
kjsimonsen@ems-ca.com

Eric Yussman
Regulatory Analyst
FELLON-MCCORD & ASSOCIATES
9960 CORPORATE CAMPUS DRIVE
LOUISVILLE KY 40223
(502) 214-6331
eyussman@knowledgeinenergy.com

Bill Marcus
JBS ENERGY
311 D STREET
WEST SACRAMENTO CA 95605
(916) 372-0534
bill@jbsenergy.com

***** SERVICE LIST *****

Last Update on 19-JUN-2006 by: LIL
A0603005 LIST

***** INFORMATION ONLY *****

Karen Terranova
ALCANTAR & KAHL, LLP
120 MONTGOMERY STREET, STE 2200
SAN FRANCISCO CA 94104
(415) 421-4143
filings@a-klaw.com

Barbara R. Barkovich
BARKOVICH & YAP, INC.
44810 ROSEWOOD TERRACE
MENDOCINO CA 95460
(707) 937-6203
brbarkovich@earthlink.net

Richard Mccann, Ph.D
M. CUBED
2655 PORTAGE BAY ROAD, SUITE 3
DAVIS CA 95616
(530) 757-6363
rmccann@umich.edu

Christopher J. Mayer
MODESTO IRRIGATION DISTRICT
PO BOX 4060
MODESTO CA 95352-4060
(209) 526-7430
chrism@mid.org

MRW & ASSOCIATES, INC.
1999 HARRISON STREET, SUITE 1440
OAKLAND CA 94612
(510) 834-1999
mrw@mrwassoc.com

Ann Kim
PACIFIC GAS & ELECTRIC COMPANY
77 BEALE STREE, B30A
SAN FRANCISCO CA 94105
cpuccases@pge.com

Lisa Browy
Regulatory Case Administrator
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, CP32D
SAN DIEGO CA 92101
(858) 654-1566
lbrowy@semprautilities.com

Karen Lindh
LINDH & ASSOCIATES
7909 WALERGA ROAD, NO. 112, PMB119
ANTELOPE CA 95843
(916) 729-1562
karen@klindh.com

Central Files
SAN DIEGO GAS AND ELECTRIC COMPANY
101 ASH STREET, CP31E
SAN DIEGO CA 92101
(858) 654-1240
CentralFiles@semprautilities.com

Tom Roberts
SIERRA CLUB BAY CHAPTER
5814 OCEAN VIEW DRIVE
OAKLAND CA 94618
(415) 203-2781
tc.roberts@mindspring.com